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13 IN THE UNITED STATES DISTRICT COURT
14 DISTRICT OF ARIZONA

15 Beatrice Miranda,)	Case No.: CIV 0908065-PCT-PGR
)	(ECV)
16 Petitioner,)	
)	
17 vs.)	EXHIBITS TO RESPONDENT
)	NIELSEN'S ANSWER
18 Tracy Nielsen, <i>et al.</i> ,)	
)	
19 Respondents.)	
)	

20 Respondent Nielsen submits the following exhibits to her Answer to the
21 Petition for Writ of Habeas Corpus submitted by Petitioner, Beatrice Miranda:
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3	Exhibit A Transcript of Initial Hearing in CR-08-119 dated 01/26/08
4	Exhibit B Transcript of Arraignment in CR-08-119 dated 02/04/08
5	
6	Exhibit C Transcript of Pre-Trial Hearing in CR-08-119 dated 03/12/08
7	Exhibit D Transcript of Trial in CR-08-119 dated 04/21/08
8	(redacted to omit minor victim, M.V.'s name)
9	Exhibit E Transcript of Sentencing in CR-08-119 dated 05/19/08
10	Exhibit F Appellant's Opening Brief in CA-08-015 dated 09/26/08
11	
12	Exhibit G Appellee's Answering Brief in CA-08-015 dated 01/19/09
13	
14	Exhibit H Appellant's Reply Brief in CA-08-015 dated 02/04/09
15	Exhibit I Pascua Yaqui Court of Appeals Opinion in CA-08-015 dated 03/29/09
16	Exhibit J Initial Hearing Order of the Trial Court in CR-08-119 dated 01/26/08
17	
18	Exhibit K Order of the Trial Court in CR-08-119 dated 02/04/08
19	
20	Exhibit L Order of the Trial Court in CR-08-119 dated 03/26/08
21	Exhibit M Order of the Trial Court in CR-08-119 dated 04/21/08
22	
23	Exhibit N Presentence Investigation Report in CR-08-119 dated 05/16/08
24	Exhibit O Sentencing Order of the Trial Court in CR-08-119 dated 05/19/08
25	
26	Exhibit P Order of the Trial Court in CR-07-064 dated 05/19/08
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2
3 IN THE PASCUA YAQUI TRIBAL COURT
4 COUNTY OF PIMA, STATE OF ARIZONA
5

6 PASCUA YAQUI TRIBE,) NO. CR-08-119
7)
8 Plaintiff,)
9 vs.)
10 BEATRICE MIRANDA,)
11)
12 Defendant.) January 26, 2008
13) Tucson, Arizona

14 BEFORE: THE HONORABLE CORNELIA CRUZ, JUDGE OF
15 THE PASCUA YAQUI TRIBE

16 APPEARANCES: G. ALLEN OSBURN, ESQ.
17 appearing for Plaintiff

18 BEATRICE MIRANDA,
19 appearing Pro Per

20
21 RE: INITIAL HEARING
22

23
24 Christine McGarvey
25 Legal Transcription Services Plus, Inc.
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INDEX

WITNESS

N/A

THE COURT: The Pascua Yaqui Tribal Court is now in session in the matter of the Pascua Yaqui Tribe versus Beatrice Miranda, Docket number CR-08-119. Today's date is January 26, 2008. (Inaudible) for this time, (inaudible). (Inaudible) Counsel, and I scheduled an additional hearing. Let me see I now will advise you of your rights. You have the right to remain silent. Anything you say may be used against you. You have the right to your own counsel at your own expense, and you have the right to (inaudible) probable cause in this phase of the proceedings. Do you understand your rights?

MS. MIRANDA: Yes.

THE COURT: Did you receive the, uh, the affidavit of, of (inaudible - coughing) --

MS. MIRANDA: I'm sorry.

THE COURT: -- filed and the complaint filed in this matter?

MS. MIRANDA: Yes.

THE COURT: The Court will determine probable

1 cause of the affidavit, and The Court finds that (inaudible)
2 received in this matter will be received without prejudice. In
3 reviewing the affidavit, The Court finds probable cause to believe
4 that you have committed the offenses in counts one, two, three,
5 four, five, six, seven and eight, and the finding that you're
6 guilty of the charges, and that the trial can continue with the
7 prosecution in this matter. We will set arraignment, Monday,
8 February 4th, at 1:30. Arraignment is scheduled for February 4th,
9 2008, at 1:30 in the afternoon, and we will add this to the
10 conditions of release.
11

12 UNIDENTIFIED FEMALE: Your Honor, the Tribe recommends
13 that, excuse me, that Defendant post a two thousand dollar bond,
14 as she has a history of failures to appear within this court from
15 2005 through 2007. Uh, she also has a history of violence, 2006,
16 uh, which victims were involved. Uhm, therefore, the Tribe does
17 not believe that she may, uhm, abide by The Court's orders if she
18 is released. And also, uh, due to the nature of the offenses
19 involving two alleged victims in this manner and that she, uh,
20 poses a threat to herself as, uh, stated in officer's affidavit.
21

22 THE COURT: Ms., uh, Ms. Miranda, do you have
23 anything to say in regards to the conditions for release?
24

25 MS. MIRANDA: No.
26
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1 THE COURT: At this time The Court will set,
2 uhm, eighteen hundred dollars to be posted prior to release. The
3 Court finds that the defendant poses a risk to herself and to the
4 community given the new charges, charges and given a copy of these
5 court papers to appear, if you wish to comply. But there's
6 nothing we would, anyone (inaudible) with his family. And again,
7 the Defendant is to return on February 4th, 2008, at 1:30 in the
8 afternoon. Ms. Miranda, do you have any questions?
9

10 MS. MIRANDA: No.

11 THE COURT: (Inaudible.)

12 UNIDENTIFIED FEMALE: Alright. Yes, Your Honor. I just
13 wanted to add, uhm, if she does post the fifteen hundred dollar
14 bond, that she have no contact with the minor, uhm, as listed in
15 the officer's affidavit. Uhm, and no contact with, uh, Bridget
16 Valenzuela (phonetically spelled as heard). That she not possess
17 any, uhm, weapons, obey all laws and appear at all future
18 hearings.
19

20 THE COURT: Oh we'll, we'll be adding, uhm,
21 recommendations. Is there anything further?
22

23 UNIDENTIFIED FEMALE: No, Your Honor.

24 THE COURT: I'll transfer that over to
25 (inaudible). Court's adjourned in this matter. We will proceed
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1 to--

2 [END OF INITIAL HEARING]

3 [Transcriber's Certification Follows:]

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CERTIFICATE

I certify that, to the best of my ability, the foregoing is a true and accurate transcription of the original tape recorded conversation in the case referenced on page 1 above.

Transcription Completed: August 19, 2008

CHRISTINE McGARVEY-LAW
INVESTIGATIVE SUPPORT SERVICES, LLP
PARALEGAL SUPPORT SERVICES, LLP
LEGAL TRANSCRIPTION SERVICES PLUS, INC.
TRANSCRIBED BY: JAN LINDENBERG

SIGNED BY: 
CHRISTINE McGARVEY

**IN THE PASCUA YAQUI TRIBAL COURT
COUNTY OF PIMA, STATE OF ARIZONA**

PASCUA YAQUI TRIBE,)	NO. CR-08-119
)	
Plaintiff,)	
)	
vs.)	
)	
BEATRICE MIRANDA,)	
)	
Defendant.)	Tucson, Arizona
_____)	February 4, 2008

**BEFORE: THE HONORABLE CORNELIA CRUZ, JUDGE OF THE
PASCUA YAQUI TRIBE**

**APPEARANCES: G. ALLEN OSBURN, ESQ.
appearing for Plaintiff**

**BEATRICE MIRANDA
appearing Pro Per**

RE: ARRAIGNMENT

**Christine McGarvey
Legal Transcription Services Plus, Inc.**

INDEX

WITNESS

N/A

COURT CLERK: ... Presiding --

THE COURT: Please be seated. The Pascua Yaqui Tribal Court is now in session in the matter of the Pascua Yaqui Tribe versus Beatrice Miranda, Docket number CR-078-119. Today's date is February 4th, 2008. (Inaudible?)

MR. OSBURN: I am, Your Honor.

THE COURT: Allen Osburn for the Tribe; Defendant is in custody, and without legal counsel. This is the date and time set for Review Hearing in this matter. And Miss Miranda, I will advise you of your rights. You have the right to remain silent. Anything you say will be used against you. You have the right to legal counsel at your own expense. You have the right to (inaudible). Miss Miranda, you have the right to cross-examine witnesses and evidence presented by the Tribe, and the right present witnesses and evidence in your behalf. You have the right to know the charges against you, and you have the right to appeal to the Pascua Yaqui Court of Appeals. Do you understand your rights?

1
2 MS. MIRANDA: Yes.
3
4 THE COURT: And now I will read the (inaudible)
5 to you and then I will ask the pleas you wish to enter. The
6 Pascua Yaqui Tribe (inaudible) and the above (inaudible) the
7 following offenses: Count One, Aggravated Assault, 4312-
8 (inaudible)0, on or about January 25th, 2008, at approximately
9 10:56 p.m., at or in the area of 7520 South Kau Bo-Oh, Beatrice
10 Miranda willfully and unlawfully (inaudible) in the upon
11 (inaudible); Count Two, Aggravated Assault, 4312-(inaudible)0, on
12 or about January 25th, 2008, at approximately 10:56 p.m., at or in
13 the area of (inaudible), that Beatrice Miranda willfully and
14 unlawfully intended to commit battery upon Bridgett Valenzuela
15 (inaudible); Count Three, Endangerment, 4312 (inaudible)00, on or
16 about January 25th, 2008, at approximately 10:56 p.m., at or in
17 the area of (inaudible) Vai Sevoi, Beatrice Miranda, (inaudible);
18 Count Four, Endangerment, 4312-(inaudible)00, on or about January
19 25th, 2008, at approximately 10:56 p.m., at or near the area of
20 (inaudible) Vai Sevoi, Beatrice Miranda, was endangering the
21 rights of Bridgett Valenzuela by pointing a knife towards her;
22 Count Five, Threatening and Intimidating, 4312 (inaudible)60, on
23 or about January 25th, 2008, at approximately 10:56 p.m., at or
24 near the area of (inaudible), Beatrice Miranda threatened
25
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1 (inaudible); Count Six, Threatening and Intimidating,
2 4312(inaudible)60, on or about January 25th. 2008, at
3 approximately 10:56 p.m., at or near the area of (inaudible),
4 Beatrice Miranda threatened Bridgett Valenzuela with the intent to
5 steal or (inaudible); Count Seven, Disorderly Conduct,
6 4312(inaudible)05, on or about January 25th, 2008, at
7 approximately 10:56 p.m., at or near the area of (inaudible),
8 Beatrice Miranda committed disorderly conduct (inaudible) to
9 (inaudible) violating or (inaudible); Count Eight, Disorderly
10 Conduct, 4312(inaudible)05, on or about January 25th, 2008, at
11 approximately 10:56 p.m., at or near the Block of (inaudible),
12 Beatrice Miranda committed disorderly conduct with the intent to
13 disturb the peace of (inaudible) neighborhood, by in--, by
14 violating ordinance (inaudible) violently or (inaudible). And
15 that's violation (inaudible) are punishable under the Pascua Yaqui
16 Tribe (inaudible). (Inaudible) dated the 26th day of January,
17 2008, (inaudible). To the charge in Count One, what is your plea?

18
19
20
21 MS. MIRANDA: Guilty.

22 THE COURT: To the charge in Count Two, what is
23 your plea?

24 MS. MIRANDA: Guilty.

25 THE COURT: To the charge in Count Three?
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1 MS. MIRANDA: Guilty.
2
3 THE COURT: And to the charge in Count Four?
4 MS. MIRANDA: Guilty.
5 THE COURT: Count Five?
6 MS. MIRANDA: Guilty.
7 THE COURT: Six?
8 MS. MIRANDA: Guilty.
9 THE COURT: Seven?
10 MS. MIRANDA: Guilty.
11 THE COURT: Eight?
12 MS. MIRANDA: Guilty.
13 THE COURT: In entering pleas of guilty, you
14
15 are giving up certain rights. (Inaudible) the right to remain
16 silent. Anything can be used against you. You do have the right
17 to legal counsel at your own expense. And, and you do, you have
18 the right to a hearing in this matter. Do you understand that
19 you're giving up these rights?
20
21 MS. MIRANDA: Yes.
22 THE COURT: And did anyone make any threats or
23 promises to you in entering your guilty pleas?
24
25 MS. MIRANDA: No.
26 THE COURT: And I need to (inaudible), the
27
28

1 factual basis (inaudible), Miss Miranda, we will begin with Count
2 One. Explain to the Court what happened on or about January 25th,
3 2008?
4

5 MS. MIRANDA: Mmm, I don't really remember
6 everything, but I just remember being there. And I did have a --

7 THE COURT: (Inaudible) --

8 MS. MIRANDA: -- knife. No. I don't really
9 remember.
10

11 THE COURT: At this time, the Court does not
12 find factual basis for all the charges, and the Court will set
13 this matter for pre--, pre-trial - March 12th at 9:30. Pre-trial
14 is scheduled for March 12th, 2008, at 9:30. You (inaudible)?

15 MR. OSBURN: We ask that they remain the same,
16 transport.
17

18 THE COURT: I'm sorry?

19 MR. OSBURN: And transport.

20 THE COURT: Miss Miranda, do you have anything
21 to say with regards to your (inaudible) that the conditions of
22 release should remain the same?

23 MS. MIRANDA: Mmm, is there any, there's no
24 alternative, like, uhm, I don't know, I don't w--, --
25

26 THE COURT: Uh, --
27
28

1 MS. MIRANDA: -- is there any a--, other
2 alternatives?
3

4 THE COURT: Such as?

5 MS. MIRANDA: As, uhm, (inaudible - mumbles), no,
6 I have objections.

7 THE COURT: At this time, bond is set at
8 fifteen hundred dollars (inaudible) to release, and you
9 (inaudible) there's a victim in this matter, (inaudible) victim
10 (inaudible) be allowed to (inaudible). Transport will
11 (inaudible). And Miss Miranda, do you have any questions?
12

13 MS. MIRANDA: No.

14 THE COURT: Is there anything further?

15 MR. OSBURN: Uh, just for the Record, we have
16 provided her with her disclosure today.
17

18 THE COURT: The Court's adjourned on this
19 matter (inaudible) proceed with --

20 [END OF ARRAIGNMENT]

21 [Transcriber's Certification Follows:]
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C E R T I F I C A T E

I certify that, to the best of my ability, the foregoing is a true and accurate transcription of the original tape recorded conversation in the case referenced on page 1 above.

Transcription Completed: August 18, 2008

CHRISTINE MCGARVEY-LAW
LEGAL TRANSCRIPTION SERVICES PLUS, INC.
TRANSCRIBED BY: CHRISTINE MCGARVEY

SIGNED BY: 

CHRISTINE MCGARVEY

**IN THE PASCUA YAQUI TRIBAL COURT
COUNTY OF PIMA, STATE OF ARIZONA**

PASCUA YAQUI TRIBE,)	NO. CR-08-119
)	
Plaintiff,)	
)	
vs.)	
)	
BEATRICE MIRANDA,)	
)	
Defendant.)	March 12, 2008
)	Tucson, Arizona

**BEFORE: THE HONORABLE CORNELIA CRUZ, JUDGE OF
THE PASCUA YAQUI TRIBE**

**APPEARANCES: G. ALLEN OSBURN, ESQ.
appearing for Plaintiff**

**BEATRICE MIRANDA,
appearing Pro Per**

RE: PRE-TRIAL HEARING

**Christine McGarvey
Legal Transcription Services Plus, Inc.**

INDEX

WITNESS

N/A

THE COURT ...appears vid--, vi--, via video conference. This is the pre-trial hearing in this matter. And Ms. Miranda, I will advise you of your rights. You have the right to remain silent. Anything you say may be used against you. You have the right to legal counsel at your own expense. You have the right to a hearing and to a jury hearing. You have the right to cross examine the witnesses, and (inaudible) about the Tribe and the right to examine witnesses in advantage on your behalf. You have the right to know the allegations against you, and you have the right to appeal to the Pascua Yaqui Court of Appeals. Do you understand your rights?

MS. MIRANDA: Yes.

THE COURT: Okay. And are there any motions to be presented to the Court today?

MR. OSBORN: Yes, Your Honor. Uh, the Defendant and, uh, Tribe have come to an agreement, and we, uh, ask to have a plea agreement hearing set, uh, on a particular date. Uh, that is, uh, on May 23rd, 2008. And the reason for that is that that would be, uh, uh, after one hundred and eighteen days of her sentence. And also, Your Honor, I'm asking to, uh, uh, because of the, uh, hundred and twentieth day ended on a Sunday, we're asking

1 to have, uh, the agreement, uh, we're going to modify that to be a
2 hundred and eighteen days instead of a hundred and twenty days.
3 So, but at this time we do ask to have the, the plea agreement
4 hearing to be the, uh, so that she be present in person, uh, on,
5 uh, May 23rd, uh, 2008.

6 THE COURT: However, the plea agreement was
7 just filed today. I haven't had a chance for probation to review
8 it. I haven't reviewed it, so I will set this matter for a trial
9 and, uh, uh, you can file an amended plea agreement, and his, the
10 probation officer will have to be here.

11 MR. OSBORN: Your Honor, in that case, we would
12 ask to have, uhm, the trial set for, uh, May 23rd, 2008, uh, and,
13 uh, I believe that, uh, the Defendant would not have, have any
14 problem with that, as that would be, uh, able to facilitate, uh,
15 the schedule. We, uh, do anticipate handling this this way, just,
16 just to make it easier on the Court's schedule and, and
17 calendaring.

18 THE COURT: I don't know what the calendar
19 looks like, but I will ask for the next trial date.

20 MS. MIRANDA: Because the ninety days
21 expires May 4th.

22 THE COURT: Okay.

23 MR. OSBORN: So Your Honor, uh, I guess the
24 question is would the Defendant object to that, uh, Your Honor,
25 should, Ms. Miranda do you so stipulate to that?

26 THE COURT: Well hold on, you're not supposed
27
28

1 to be questioning the Defendant.

2 MR. OSBORN: Yeah.

3 THE COURT: Uhm, she has timeliness in this
4 matter, so we have to following the timeliness in this matter.

5 MR. OSBORN: Well we understand, Your Honor, but
6 it, it works to her advantage to have this set up this particular
7 time so we can have her brought here in person on that date, uh,
8 'cause --

9 THE COURT: Well she would have to appear
10 either way for sentencing because it's a plea agreement, she would
11 have to appear. Okay do you have a date and time?

12 UNIDENTIFIED FEMALE: April 21st, at 10:00 a.m.

13 THE COURT: Trial is scheduled for April 21st,
14 2008, at 10:00 in the morning. And the, uh, Court will, uh, if
15 approved by the Probation Department, The Court, uh, will hear the
16 plea agreement at that time or we will proceed to the trial. And,
17 any recommendations on conditions of release?

18 MR. OSBORN: That they stay the same, Your
19 Honor.

20 THE COURT: Ms. Miranda, do you have anything
21 to say in regarding the, uh, recommendation for release if they
22 remain the same?

23 MS. MIRANDA: Uhm, no.

24 THE COURT: No? At this time, the, uh, you
25 will remain detained on the two, you post bond on fifteen hundred
26 dollars, uh, prior to release, and all the conditions of re--,

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1 release will apply. And Ms. Miranda, do you have any questions?

2 MS. MIRANDA: Uhm, no. Not as far as, uh,
3 this case, but I do have some questions though. Well, uh, about
4 my probation I was on, uhm--

5 THE COURT: Okay. Now that's another matter
6 and I don't have that file before me, and you will need to speak
7 with your probation officer.

8 MS. MIRANDA: Alright. Okay.

9 THE COURT: Okay. Do you have further?

10 MR. OSBORN: Just transport, Your Honor.

11 THE COURT: Uhm, Defendant will be transported
12 in (inaudible) rule on this matter.

13

14 [END OF VIDEO CONFERENCE]

15 [Transcriber's Certification Follows:]

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CERTIFICATE

I certify that, to the best of my ability, the foregoing is a true and accurate transcription of the original tape recorded conversation in the case referenced on page 1 above.

Transcription Completed: August 19, 2008

**CHRISTINE McGARVEY-LAW
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PARALEGAL SUPPORT SERVICES, LLP
LEGAL TRANSCRIPTION SERVICES PLUS, INC.
TRANSCRIBED BY: JAN LINDENBERG**

SIGNED BY: CHRISTINE McGARVEY

C E R T I F I C A T E

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CHRISTINE McGARVEY